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5  
6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 DAN L. WULZ, )  
9 Plaintiff, )  
10 vs. ) No.  
11 ENHANCED RECOVERY CORPORATION,)  
12 a foreign corporation, )  
13 Defendant. )  
14 \_\_\_\_\_ JURY DEMANDED

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15 COMPLAINT

16 JURISDICTION

17 1. The jurisdiction of this Court attains pursuant to the  
18 FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,  
19 and the doctrine of supplemental jurisdiction. Venue lies in the  
20 Southern Division of the Judicial District of Nevada as Plaintiff's  
21 claims arose from acts of the Defendant(s) perpetrated therein.

22 PRELIMINARY STATEMENT

23 2. This action is instituted in accordance with and to  
24 remedy Defendant's violations of the Federal Fair Debt Collection  
25 Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and  
26 of related state law obligations brought as supplemental claims  
27 hereto.

3. In 2007, Defendant initiated a campaign of abusive, unfair, unreasonable, and unlawful debt collection activity directed against Plaintiff in Las Vegas, Nevada.

4. As a result of these and other violations of law, Plaintiff seeks hereby to recover actual and statutory damages together with reasonable attorney's fees and costs.

## PARTIES

5. Plaintiff, Dan L. Wulz, is a natural person who resides in Las Vegas, Nevada, and is "any person" as defined by 15 U.S.C. Section 1692(k)(a). *Whatley v. Universal Collection Bureau, Etc.*, 525 F. Supp. 1204 (1981).

6. Defendant, Enhanced Recovery Corporation, is a foreign corporation, the principal purpose of whose business is the collection of debts, operating a debt collection agency from its principal place of business in Jacksonville, FL, and regularly collects or attempts to collect debts owed or due or asserted to be owed or due another, and is a "debt collector" as defined by 15 U.S.C. Section 1692a(6).

## **FACTUAL ALLEGATIONS**

7. Plaintiff(s) repeat, reallege and assert all factual allegations contained in the preliminary statement to this Complaint and reassert them as incorporated in full herein.

8. Plaintiff is the Deputy Executive Director of Clark County Legal Services.

1           9. Approximately one year ago Plaintiff received a new home  
2 telephone number.  
3

4           10. Over the last months Plaintiff has received calls from  
5 Defendant attempting to collect money from *Donald Bruce*.  
6

7           11. Plaintiff has bent over backwards urging Defendant to  
8 simply leave him alone.  
9

10          12. Defendant called Plaintiff numerous times over the last  
11 few months.  
12

13          13. Plaintiff has records of automated calls left on December  
14 31, 2007, January 4, 2008, January 19, 2008, and January 21, 2008.  
15

16          14. Defendant left return call numbers 800-305-5557 and 800-  
17 326-0120 on its sundry messages.  
18

19          15. On January 21, 2008, Plaintiff called Defendant.  
20

21          16. Plaintiff he explained he was not *Mr. Bruce* and received  
22 assurance that there would be no more calls from Defendant.  
23

24          17. Defendant called again on January 22, 2008, January 29,  
25 2008, February 2, 2008, and February 4, 2008.  
26

27          18. On February 4, 2008, Plaintiff again called Defendant.  
28

29          19. Plaintiff advised Defendant's representative both who he  
30 was and that this was his second call requesting to be left alone.  
31

32          20. The representative assured Plaintiff he would receive no  
33 further calls from Defendant.  
34

35          21. Defendant called again on both February 9 and February  
36 11, 2008.  
37

38          22. Defendant's continued phone contacts to Plaintiff, at  
39 times and at a place known to be inconvenient to Plaintiff, were  
40 made in violation of FDCPA § 1692c(a)(1). Fox v. Citicorp Credit  
41 Services, Inc., 15 F.3d 1507, 1516, fn. 10 (9th Cir. 1994), Austin  
42

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1                   v. Great Lakes Collection Bureau, Inc., 834 F. Supp. 557, 559 (D.  
 2 Conn. 1993).

3                   23. The Defendant's repeated recalls to Plaintiff  
 4 constituted harassment in violation of FDCPA §§ 1692d and 1692d(5).  
 5                   Fox v. Citicorp Credit Services, Inc., 15 F.3d 1507, 1516 (9th Cir.  
 6 1994), Bingham v. Collection Bureau, Inc., 505 F. Supp. 864, 873  
 7 (1981), Kuhn v. Account Control Technology, Inc., 865 F. Supp.  
 8 1443, 1452-53 (D. Nev. 1994).

9                   24. The foregoing acts and omissions of Defendant were  
 10 undertaken by it willfully, maliciously, and intentionally,  
 11 knowingly, and/or in gross or reckless disregard of the rights of  
 12 Plaintiff.

13                   25. Indeed, the foregoing acts and omissions of Defendant  
 14 were undertaken by it indiscriminately and persistently, as part of  
 15 its regular and routine debt collection efforts, and without regard  
 16 to or consideration of the identity or rights of Plaintiff.

17                   26. As a proximate result of the foregoing acts and omissions  
 18 of Defendant, Plaintiff has suffered actual damages and injury,  
 19 including, but not limited to, stress, humiliation, mental anguish  
 20 and suffering, and emotional distress, for which Plaintiff should  
 21 be compensated in an amount to be proven at trial.

22                   27. As a result of the foregoing acts and omissions of  
 23 Defendant, and in order to punish Defendant for its outrageous and  
 24 malicious conduct, as well as to deter it from committing similar  
 25 acts in the future as part of its debt collection efforts,  
 26 Plaintiff is entitled to recover punitive damages in an amount to  
 27 be proven at trial.

28 . . .

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1 CAUSES OF ACTION  
2

3 COUNT I  
4

5 28. The foregoing acts and omissions of Defendant constitute  
6 violations of the FDCPA, including, but not limited to, Sections  
7 1692d, 1692e, 1692f and 1692g.  
8

9 29. Plaintiff is entitled to recover statutory damages,  
10 actual damages, reasonable attorney's fees, and costs.  
11

12 COUNT II  
13

14 30. The foregoing acts and omissions constitute unreasonable  
15 debt collection practices in violation of the doctrine of Invasion  
16 of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp.  
17 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of*  
18 *Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).  
19

20 31. Plaintiff is entitled to recover actual damages as well  
21 as punitive damages in an amount to be proven at trial.  
22

23 JURY DEMANDED  
24

25 Plaintiff hereby demands trial by a jury on all issues so  
26 triable.  
27

28 WHEREFORE, Plaintiff prays that this Honorable Court grant the  
29 following relief:  
30

- 31 1. Award actual damages.  
32 2. Award punitive damages.  
33 3. Award statutory damages of \$1,000 pursuant to 15 U.S.C.  
34 § 1692k.  
35 4. Award reasonable attorney fees.  
36 5. Award costs.  
37

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1       6. Grant such other and further relief as it deems just and  
2 proper.  
3  
4  
5

Respectfully submitted,

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